

**REMARKS/ARGUMENTS**

Reconsideration and allowance of this application are respectfully requested. Currently, claims 1, 4-25, 30, 32, 33 and 39-47 are pending in this application.

**Submission of References:**

Section 3 of the Office Action indicated that British patent application no. 9812161.9 and "Communications Network" (BT reference A 25793) have not been found with the application file.

British patent application no. 9812161.9 is one of the applications from which the present U.S. application claims priority. The Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed November 8, 2000 in the present application explicitly acknowledges receipt of the priority documents. Contrary to the allegations of Section 3 of the Office Action, the Patent Office has already acknowledged receipt of British patent application no. 9812161.9. In an abundance of caution, however, Applicant has attached hereto another copy of British patent application no. 9812161.9.

Reference to BT reference A 25793 has been deleted. The recitation of A 25793 was an error as this reference refers to the present application.

**AMENDMENTS TO THE DRAWINGS**

The attached sheets of drawings include changes to Figs. 1, 2a-2b, 3a-3b, 4, 9, 10 and 13. These sheets replace the original sheets including Figs. 1, 2a-2b, 3a-3b, 4, 9, 10 and 13. In Fig. 1, previously omitted reference label “6” has been added. Figs. 2a-2b have been deleted. Figs. 3a-3b have been relabeled as Figs. 2 and 3, respectively. In Fig. 4, labels “g”, “h” and “i” have been deleted. In Fig. 9, reference labels “3”, “7”, “44”, “46” and “100” have been deleted. In Fig. 10, reference labels have been deleted and previously omitted reference label “10” has been added. In Fig. 13, reference labels “10”, “82”, “83”, “85”, “86”, “88” and “89” have been deleted and new reference labels “132”, “133”, “135”, “136”, “137”, “138” and “139” have been added.

Attachment: Replacement Sheet(s)  
Annotated Sheet Showing Changes

**Substitute Specification:**

Attached is a substitute specification. The substitute specification includes a listing of the present application number (application no. 09/674,706) and attorney docket number in the upper right hand corner of each page as requested by section 4 of the Office Action. The substitute specification also includes appropriate section headings as requested in sections 6-7 of the Office Action.

A marked-up copy of the substitute specification showing all of the changes relative to the prior version of the specification of record is also attached.

Applicant hereby states that no new matter has been included in the substitute specification.

**Incorporation by Reference:**

The Office Action states “The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper.” The incorporation by reference of BT reference A 25793 (see page 6, line 18 of the originally-filed specification) has been deleted. The incorporation by reference of British application no. 9812161.9 (see page 1, lines 7-9 of the originally-filed specification) does not incorporate “essential” material in the present specification to the extent that the material presented by this British patent application is already explicitly stated in the present U.S. application. If any material of the British patent application is not already explicitly stated by the present U.S. application, Applicant respectfully requests that the next Office

Action identify this material of the British patent application. Applicant thus respectfully requests that the objection to the incorporation by reference be withdrawn.

**Objections to the Specification:**

Section 10 of the Office Action makes reference to phrases on page 2, line 5 and page 2, line 23 of the originally-filed specification. Applicant has amended the specification in accordance with the Office Action's helpful suggestion.

With respect to the term "idempotent", Applicant respectfully submits that this term is well understood by those skilled in the art. As evidence, Applicant has attached hereto a printed download of the definition of this term from [www.dictionary.com](http://www.dictionary.com). Moreover, page 9, lines 26-27 of the specification clearly states that "Idempotency guarantees that a tariff will not be adversely affected if an adjustment is applied more than once. Completeness implies that an adjustment determines the entire parameter set of a tariff object, so that an adjustment completely removed the effects of any previously applied adjustments." Accordingly, the definition of the term "idempotent" is clear.

**Objections to the Drawings:**

Sections 11 and 13 of the Office Action objected to the specification and various figures of the drawings. Various figures and portions of the specification have been amended. For example, Figs. 2a-2b have been deleted. Reference labels "g", "h" and "i" in Fig. 4 have been deleted. A description of Figs. 3a and

3b (now relabeled as Figs. 2 and 3) can be found starting at page 15, line 16 of the originally-filed specification. Various reference labels in Figs. 9 and 10 have been deleted. The last paragraph in page 22 of the originally-filed specification has been amended to include a description of various reference labels in Fig. 11.

Various reference labels in Fig. 13 have been renumbered. Applicant thus respectfully requests that the objections to the drawings and specification found in sections 11 and 13 of the Office Action be withdrawn.

**Objection to the Abstract:**

Section 12 of the Office Action alleged that the present application does not contain an abstract. While page 33 of the originally-filed application included an abstract, Applicant has attached hereto a new abstract.

**Claim Objections:**

Section 14 of the Office Action indicated that claims 16 and 30 were objected to because of various informalities. Claims 16 and 30 have been editorially amended in accordance with the Office Action's helpful suggestions. Applicant thus requests that the objections to claims 16 and 30 be withdrawn.

**Rejections Under 35 U.S.C. §112:**

Claims 1, 10, 18, 19, 22, 24 and 29 were rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Office Action alleges that claim 1 (c) is confusing and unclear. Applicant

respectfully disagrees. Claim 1 (c) requires sampling usage of network resources by at least one of the customer terminals by performing two sub-steps. The first sub-step includes measuring a portion of the usage only by the at least one of the customer terminals (see claim 1 (c) (i)). The second sub-step (see claim 1 (c) (ii)) includes comparing the measurement of sub-step (i) with the measurement in step (a) and/or the network usage charge calculated in step (b). Applicant thus submits that claim 1 (c) is clear. Claim 10 further limits sampling the usage in step (c).

With respect to claim 19, the recitation of “both” in “measuring both packets” has been deleted. With respect to claims 18, 19, 22 and 24, Applicant submits that the recitation of “packets” is clear. As is commonly understood by those skilled in the art, a packet is a unit of data transmitted over a network. (See, e.g., glossary of terms from [www.microsoft.com](http://www.microsoft.com)). The breadth of what sort of packets that the packets recited in claims 18, 19, 22 and 24 is not to be equated with indefiniteness. New claims 40-45 have been added to identify specific types of packets.

Claim 29 has been canceled, and thus the rejection of this claim is moot.

**Rejections Under 35 U.S.C. §102 and §103:**

Claims 1-20, 29, 30 and 32-39 were rejected under 35 U.S.C. §102(a) as allegedly being anticipated by Ball et al (U.S. ‘200, hereinafter “Ball”). Claims 21-25 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Ball in view of Takeuchi et al (U.S. ‘456, hereinafter “Takeuchi”).

The present application is a national phase filing of international application no. PCT/GB99/01772 designating the U.S. The Notification of Acceptance of Application Under 35 U.S.C. §371 and 37 CFR 1.494 or 1.495 (Form PCT/DO/EO/903) mailed November 8, 2000 expressly acknowledges receipt of the priority documents by the U.S. Patent Office.

Ball was filed in the U.S. Patent Office on March 25, 1999. Accordingly, Ball is only effective as “prior art” as of its March 25, 1999 filing date. The present application is entitled to priority rights based on the following patent applications: GB 9812161.9 filed June 5, 1998; EP 98309609.0 filed November 24, 1998; GB 9825723.1 filed November 24, 1998; GB 9902052.1 filed January 29, 1999; and GB 9902648.6 filed February 5, 1999. Each of the filing dates of the above-identified foreign priority applications is before the March 25, 1999 filing date of Ball. As noted above, receipt of the priority documents has been acknowledged by the USPTO. Accordingly, it is believed that Applicant has perfected its foreign priority claim under 35 U.S.C. §119 and that Ball is therefore not “prior art” with respect to the present application. It is therefore not believed necessary at this time to discuss the technological deficiencies of this document and hence the combination of this document with Takeuchi. Applicant therefore respectfully requests that the above rejections under 35 U.S.C. §102 and §103 be withdrawn.

***BRISCOE et al.***  
***Application No. 09/674,706***  
***January 6, 2005***

**New Claims:**

New claims 40-45 depend at least indirectly from claim 1 and are thus allowable for at least the reasons discussed above with respect to this base claim. New independent claims 46 and 47 have also been added.

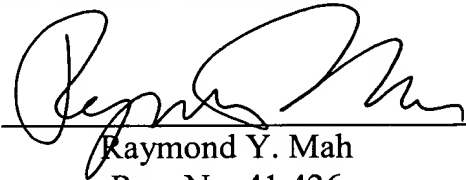
**Conclusion:**

Applicant believes that this entire application is in condition for allowance and respectfully requests a notice to this effect. If the Examiner has any questions or believes that an interview would further prosecution of this application, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:



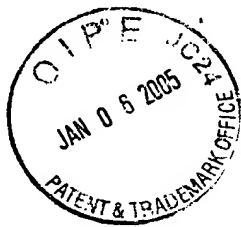
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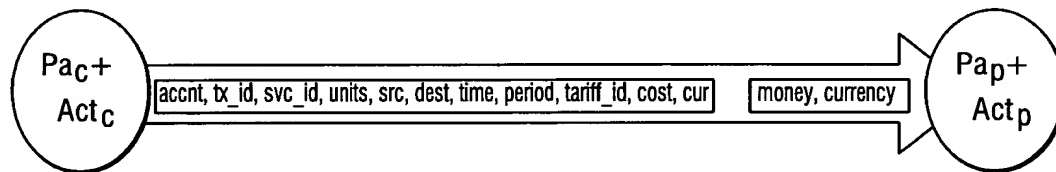
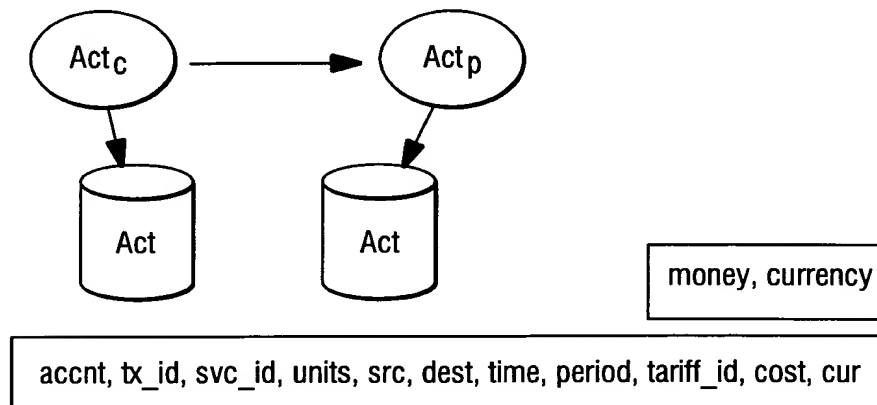


**ABSTRACT**

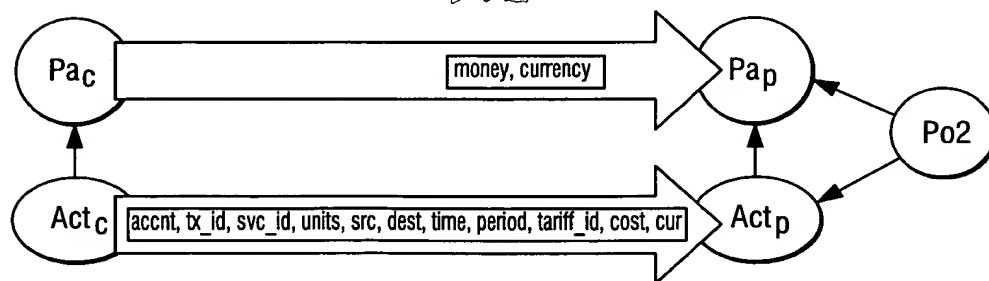
In a communications network, use of network resources is measured locally at customer terminals, for example by counting the number of packets sent and received. The resulting data may be aggregated and sent to a network accounting object. Accounting data may subsequently be passed between network subdomains.



2  
Fig. 3a.



3  
Fig. 3b.



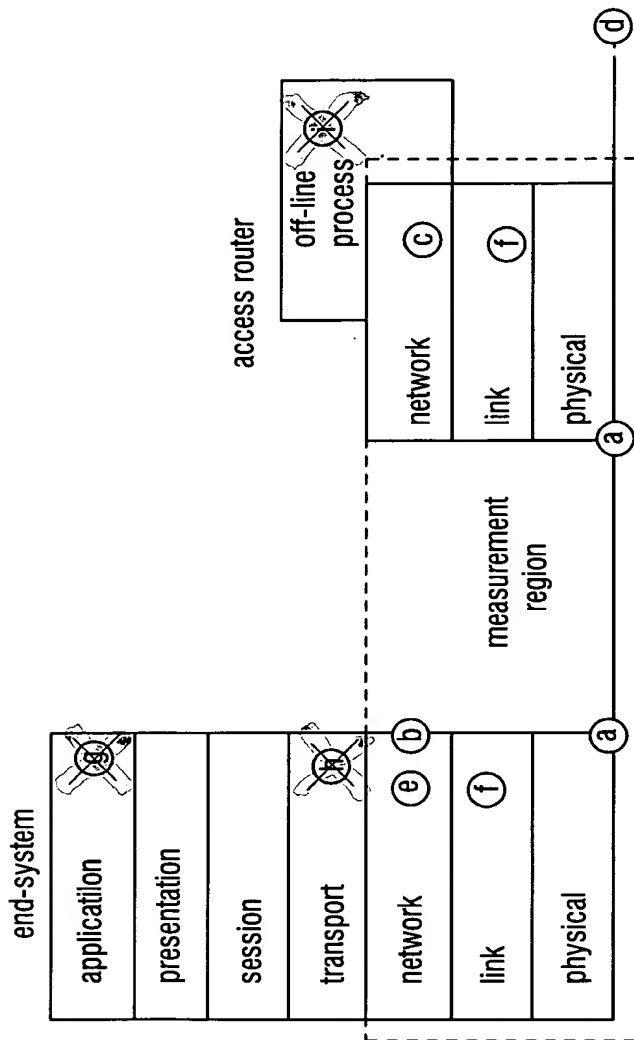
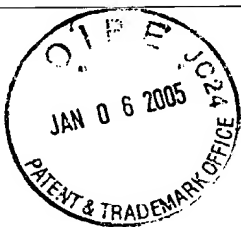


Fig. 4

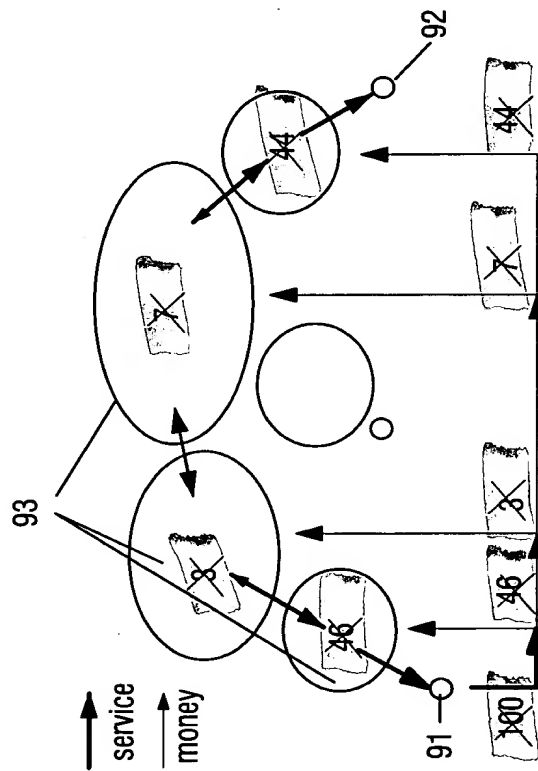


Fig. 9

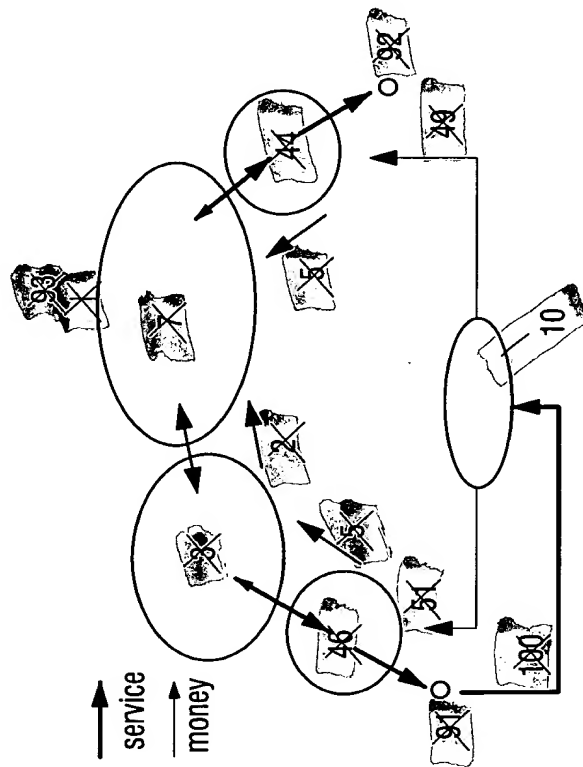


Fig. 10

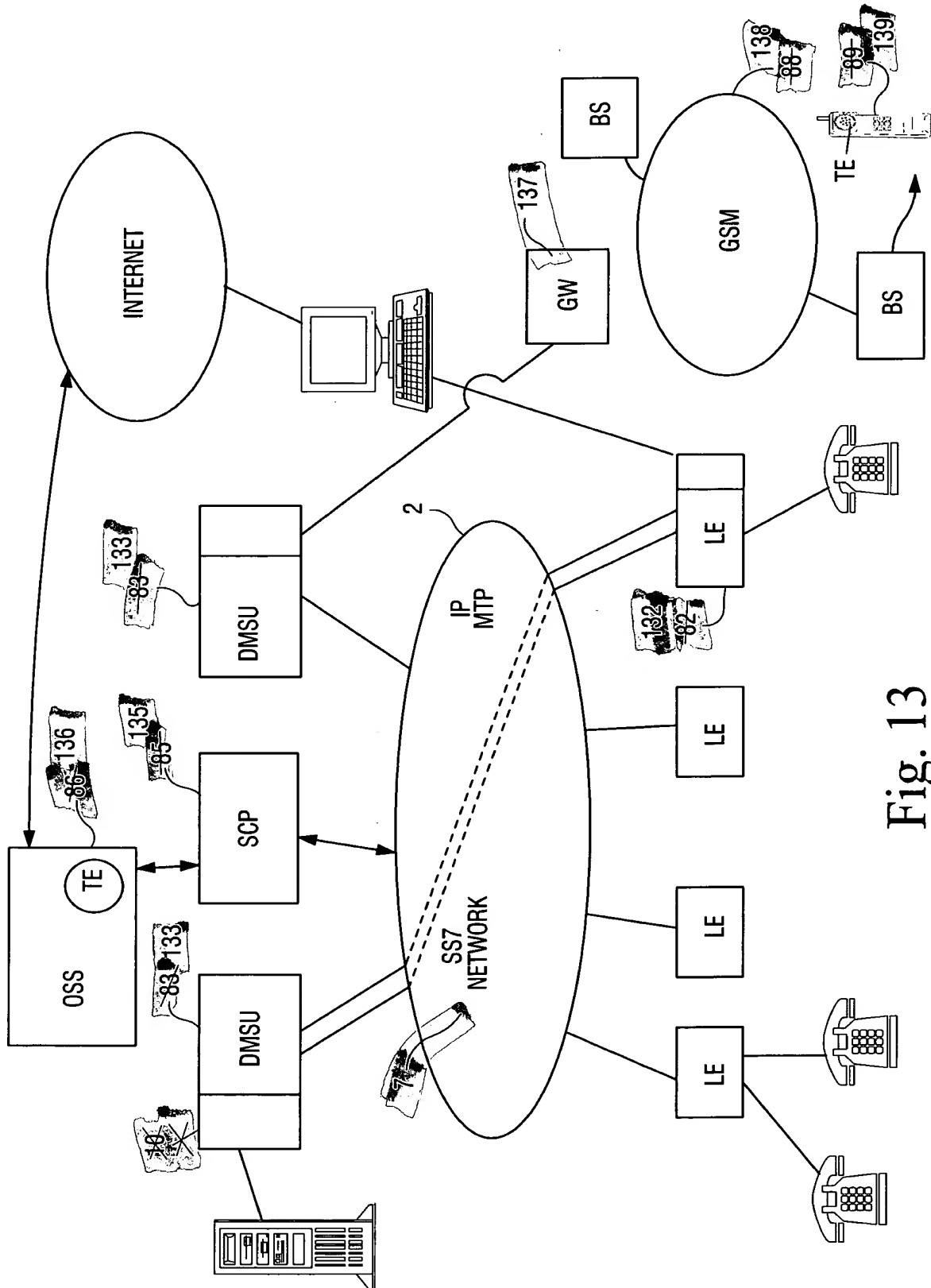


Fig. 13